

No. 12455

United States
Court of Appeals
for the Ninth Circuit.

JIM YUEN JUNG,

Appellant,

vs.

BRUCE G. BARBER, District Director for the
Immigration and Naturalization Service, San
Francisco,

Appellee.

Transcript of Record

Appeal from the United States District Court,
Northern District of California,
Southern Division.

FILED

FEB 13 1950

PAUL P. O'BRIEN,
CLERK

No. 12455

United States
Court of Appeals
for the Ninth Circuit.

JIM YUEN JUNG,

Appellant,

vs.

BRUCE G. BARBER, District Director for the
Immigration and Naturalization Service, San
Francisco,

Appellee.

Transcript of Record

Appeal from the United States District Court,
Northern District of California,
Southern Division.

INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

	PAGE
Affidavit for Use Under Nationality Act of 1940	9
Certificate of Clerk to Record on Appeal.....	45
Certificate of Examination.....	8
Designation of Record on Appeal.....	22
Designation of Record to Be Incorporated in Transcript on Appeal.....	47
Exhibit, Government's:	
No. 1—Verification of Military or Naval Service Under Nationality Act of 1940, as Amended.....	17
Names and Addresses of Attorneys.....	1
Naturalization Petitions Recommended to Be Denied	10
Notice of Appeal.....	20
Order Denying Petition for Naturalization...	20
Order for Transmittal of Certified Copies of Original Documents.....	22

INDEX

PAGE

Petition for Naturalization.....	2
Report and Recommendation of the Designated Examiner	11
Reporter's Transcript.....	24
Statement of Points on Which Appellant In- tends to Rely.....	46
Stipulation for Transmittal of Certified Copies of Original Documents.....	21
Witness, Petitioner's: Jung, Jim Yuen.....	24

NAMES AND ADDRESSES OF ATTORNEYS

JACKSON & HERTOGS,

580 Washington Street,
San Francisco, California.

Attorneys for Petitioner and Appellant.

FRANK J. HENNESSY,

United States Attorney,
Northern District of California,
Post Office Building,
San Francisco, California.

Attorney for Defendant and Appellee.

United States of America

No. 92824

PETITION FOR NATURALIZATION

[Under Section 324 (a) of the Nationality Act of 1940 (Public, No. 853, 76th Cong.)]

To the Honorable the District Court of the United States at San Francisco, California.

This petition for naturalization, hereby made and filed, respectfully shows:

(1) My full, true, and correct name is Jim Yuen Jung.

(2) My present place of residence is 12 Beckett St., San Francisco, Calif.

(3) My occupation is Sgt. U. S. Army. (4) I am 37 years old. (5) I was born on July 12, 1912, in Seung on Lee Village, Hoy Ping, Dist. of Kwangtung Province, China. (6) My personal description is as follows: Sex, male; color, yellow; complexion, sallow; color of eyes, brown; color of hair, black; height, 5 feet 8 inches; weight, 175 pounds; visible distinctive marks, mole, left side mouth; race, Chinese; present nationality, Chinese. (7) I am married; the name of my wife is Tom Shee; we were married on April, 1930, at Hong Kong, China; she was born at Toyshan District, China, on unknown 1914 * * * and now resides at Hong Kong, China * * *.

(8) I have 3 children; and the name, sex, date and place of birth, and present place of residence of each

of said children who is living, are as follows: Chew Suey (M), born in China, May 20, 1932, now resides in China; Chew Gin (M), born in China, Feb. 16, 1934, now resides in China; Chew Ming (M), born in China, Sept. 1, 1941, now resides in China.

(9) My last place of foreign residence was Hong Kong, China. (10) I emigrated to the United States from Hong Kong, China. (11) My lawful entry for permanent residence in the United States was at San Francisco, Calif., under the name of Jung Jim Yen on March 13, 1941, on the SS President Coolidge.

(12) Since my lawful entry for permanent residence I have not been absent from the United States, for a period or periods of 6 months or longer, as follows: * * *

Forms N-421 and N-440 attached hereto and made a part hereof. Pet. amended Nov. 23, 1949, to correct place of birth as Seung on Lee Village, Hoy Ping Dist., Kwangtung Province, China.

* * *

(14) It is my intention in good faith to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which at this time I am a subject or citizen, and it is my intention to reside permanently in the United States. (15) I am not, and have not been for the period of at least 10 years immediately preceding the date of this petition, an anarchist; nor a believer in the unlawful damage, injury, or destruc-

tion of property, or sabotage; nor a disbeliever in or opposed to organized government; nor a member of or affiliated with any organization or body of persons teaching disbelief in or opposition to organized government. (16) I am able to speak the English language (unless physically unable to do so). (17) I am, and have been during all of the periods required by law, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States. (18) I have resided continuously in the United States of America for the term of 5 years at least immediately preceding the date of this petition, to wit, since March 13, 1941 and continuously in the state in which this petition is made for the term of 6 months at least immediately preceding the date of this petition, to wit, since January, 1944. (19) I have not heretofore made petition for naturalization.

* * *

(20) Attached hereto and made a part of this, my petition for naturalization, are my declaration of intention to become a citizen of the United States (if such declaration of intention be required by the naturalization law), a certificate of arrival from the Immigration and Naturalization Service of my said lawful entry into the United States for permanent residence (if such certificate of arrival be required by the naturalization law), and the affidavits of at least two verifying witnesses required by law.

(21) Wherefore, I, your petitioner for naturalization, pray that I may be admitted a citizen of the United States of America * * *

(22) I, aforesaid petitioner, do swear (affirm) that I know the contents of this petition for naturalization subscribed by me, that the same are true to the best of my own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters I believe them to be true, and that this petition is signed by me with my full, true name: So Help Me God.

Alien Registration No.

No Fee U. S. Army man.

/s/ JIM YUEN JUNG.

Affidavit of Witnesses

The following witnesses, each being severally, duly, and respectively sworn, depose and say:

My name is George Wong, my occupation is unemployed, I reside at 834 Vallejo Street, San Francisco, California, and

My name is Robert Woo, my occupation is manager, insurance office, I reside at 820 Jackson Street, San Francisco, California.

I am a citizen of the United States of America; I have personally known and have been acquainted in the United States with Jim Yuen Jung, the petitioner named in the petition for naturalization of which this affidavit is a part, since October 1, 1949, to my personal knowledge the petitioner has resided, immediately preceding the date of filing this petition, in the United States continuously since the date last mentioned, and at San Francisco in the State of California continuously since October 1, 1949, and

I have personal knowledge that the petitioner is and during all such periods has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States, and in my opinion the petitioner is in every way qualified to be admitted a citizen of the United States.

I do swear (affirm) that the statements of fact I have made in this affidavit of this petition for naturalization subscribed by me are true to the best of my knowledge and belief: So Help Me God.

/s/ GEORGE WONG.

/s/ ROBERT WOO.

* * *

When Oath Administered by Designated Examiner

Subscribed and sworn to before me by above-named petitioner and witnesses in the respective forms of oath shown in said petition and affidavit at San Francisco this ninth day of November, A. D. 1949.

/s/ JOHN F. O'SHEA,

Designated Examiner.

I Hereby Certify That the foregoing petition for naturalization was by petitioner above named filed in the office of said court at San Francisco this ninth day of November, A. D. 1949.

C. W. CALBREATH,

Clerk.

[Seal]

/s/ MARIE L. BALDWIN,

Deputy Clerk.

Oath of Allegiance

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely without any mental reservation or purpose of evasion: So Help Me God. In acknowledgement whereof I have hereunto affixed my signature.

/s/ JIM YUEN JUNG,

Sworn to in open court, this—day of—, A.D. 19. .

C. W. CALBREATH,

Clerk.

* * *

Petition denied: List No. 2279, Nov. 30, 1949, failure to establish good moral character. See order book 11/23/49. List 2278. Submitted Judge Goodman Nov. 23/49 filed U. S. Exl, "Verification of Service Form N-423, Dec. 7, 1949, filed Notice of Appeal and notified U. S. Atty and Dist. Director of Imm. and Nat'zn. Dec. 29/49 filed reporter's transcript of hrg. Jan. 6, 1950, filed designation of record on appeal. Jan. 9, filed designation of record on appeal.

Original

U. S. Department of Justice
Immigration and Naturalization Service

CERTIFICATE OF EXAMINATION

Petition No. 92824

U. S. District Court, San Francisco, Calif.

I hereby certify that Jim Yuen Jung residing at 12 Beckett St., San Francisco, California, an applicant for naturalization, and the required two witnesses, namely, George Wong, residing at 834 Vallejo St., San Francisco, California; Robert Woo, residing at 820 Jackson St., San Francisco, California, appeared before me and were examined on November 9, 1949, in accordance with section 324-A of the Nationality Act of 1940, and that the statements contained in the said applicant's petition for naturalization constitute the record of such examination.

/s/ C. A. ANTONIOLI,

U. S. Naturalization Examiner.

Note to Clerk—This certification must be attached to the original petition for naturalization at the time of filing.

In the United States District Court sitting at
San Francisco, California

Petition No. 92824

AFFIDAVIT FOR USE UNDER SECTION 324
OR 325, NATIONALITY ACT OF 1940 (54
STAT. 1149-1150), IN SUPPORT OF PETI-
TION FOR NATURALIZATION BASED
ON MILITARY, NAVAL, OR MERCHANT
MARINE SERVICE.

In the Matter of the Petition of:

Jin Yuen Jung to be admitted as a citizen of
the United States.

The petitioner above named, being first duly
sworn, on oath deposes and says:

1. (In case the application is based upon at least
3 years' service in the United States Army, Navy,
Marine Corps, or Coast Guard the paragraph next
following should be executed.)

I entered the United States Army on May 17,
1946, under Serial No. 19 260 190, and am still serv-
ing honorably therein.

* * *

/s/ JIM YUEN JUNG.

Subscribed and sworn to before me, and honor-
able discharge certificate or certificate of service
showing good conduct of petitioner exhibited to me,
this ninth day of November, 1949.

[Seal] /s/ C. A. ANTONIOLI,

Naturalization Examiner.

* * *

NATURALIZATION PETITIONS
RECOMMENDED TO BE DENIED

Date November 23rd, 1949. List No. 2278.

This list consists of four sheets. Sheet No. 3.

To the Honorable the District Court of the United States sitting at San Francisco, California.

F. P. Boland duly designated under the Nationality Act of 1940 (54 Stat. 1156) to conduct preliminary hearings upon petitions for naturalization to the above-named court and to make findings and recommendations thereon, has personally examined under oath at a preliminary hearing the following one (1) petitioners for naturalization and their required witnesses, has found for the reasons stated below, that such petitions should not be granted, and therefore recommends that such petitions be denied.

Petition No. 92824.

Name of petitioner, Jim Yuen Jung.

Reason for denial, he has failed to establish that he has been a person of good moral character during the period required by law.

Respectfully submitted,

/s/ F. P. BOLAND,

Officer in attendance at final hearing.

Date November 23rd, 1949.

[Endorsed]: Filed November 23, 1949.

In the District Court of the United States, Northern
District of California, Southern Division
No. 92824

In the Matter of the Petition of
JIM YUEN JUNG, for naturalization.

REPORT AND RECOMMENDATION OF THE
DESIGNATED EXAMINER

The issue presented in this case is whether the petitioner has been a person of good moral character during the period required by law, as contemplated by Section 324(a) of the Nationality Act of 1940 (8 U. S. C. 724(a)).

The petitioner first came to the attention of the Immigration and Naturalization Service when he arrived at the port of San Francisco on the SS "President Coolidge" on March 13, 1941, then seeking to enter the United States as a native born citizen.

The petitioner was held for examination by a Board of Special Inquiry, and testified before that board, through several Chinese interpreters, on April 21 and 22, 1941, August 29, 1941, and October 14, 1941. He claimed repeatedly that he had been born on July 12, 1912, at 631 Pacific Street, San Francisco, California; that he had left San Francisco on May 14, 1913, on the SS "Manchuria" for China, with his mother Chin Shee or Chin How Moi and remained in China until his departure for the United States from Hongkong in 1941. He further testified that his mother remained in China from

1913 until she died at Hongkong at his home on August 13, 1935, and that his father, Jung Goon, last left the United States on December 6, 1911 and died in Hongkong on January 5, 1913. He presented three purported affidavits to support his contention that the facts were as he claimed:

(1) By Chin Sing, sworn and subscribed to before Notary Public L. C. Naughton on March 11, 1940, in the Borough of Manhattan, County of Kings, New York, identifying the petitioner and stating that he was born in San Francisco on July 12, 1912

(2) By Chin How Moi, petitioner's alleged mother, purportedly subscribed and sworn to before Notary Public Harry L. Horn, May 12, 1913, in San Francisco, California, and witnessed by R. R. Bellingall. To this affidavit is attached a photograph of a child, claimed by Jung Jim Yuen to be himself, purportedly visaed to show departure of that child from San Francisco, May 14, 1913, on the SS "Manchuria," signed "W. D. Heitmann, Inspector." This document intended as an affidavit of birth and identity.

(3) A two page affidavit purportedly made jointly by R. R. Bellingall, Mrs. P. J. Connolly and Clara Waite, May 12, 1913, before Harry L. Horn, in San Francisco, intended as an affidavit of birth and identity.

These alleged affidavits were the only documentary evidence presented by Jung Jim Yuen bearing on his claimed relationship and citizenship. Investigation

developed that these affidavits were fraudulent documents and that Jung Jim Yuen's testimony, given under oath, was false.

In this connection, the following comments taken from the summary of the Chairman of the Board of Special Inquiry, dated October 22, 1941, are pertinent:

The departure "visa" stamp impression purporting to show departure of the applicant on May 14, 1913, on the alleged mother's "affidavit" was not an impression made by the official stamp then in use—the measurements were different, the ink was of a different color, and the signature, "W. D. Heitmann" thereon was found to be a forgery.

The purported signatures of R. R. Bellingall on the 1913 "affidavits" were stated by R. R. Bellingall himself to be forgeries.

There is no record of departure from this port by the applicant and his alleged mother on the SS "Manchuria," May 14, 1913, and no copy of the purported 1913 affidavits on file here in San Francisco, as there would be if the departure had occurred as and when claimed. The SS "Manchuria" did not sail from this port for the Orient on May 14, 1913, but did sail April 12 and June 26, 1913, but not on any day between the latter two dates; no vessel sailed from San Francisco for the Orient on May 14, 1913.

The "affidavits" purportedly executed in San Francisco on May 12, 1913, before a notary public, Harry L. Horn, and that purportedly executed in New York City on March 11, 1940, before notary

public L. C. Naughton, were actually typed on the same typewriter, and the signature "L. C. Naughton" in the jurat of the last mentioned document was said by the son of L. C. Naughton to be a forgery. L. C. Naughton himself could not have signed the document since he died on February 27, 1931, and the affidavit purports to have been executed on March 11, 1940.

From the foregoing it appears that the documents were executed not too long before the subject landed, and that the affidavits purporting to be executed in 1913 and in 1940 were executed at the same time. Notwithstanding the discrepancies, which were pointed out to applicant, he insisted that his mother took the 1913 documents with her to China and gave them to him sometime before she died and that he received the 1940 document in that year.

There were other discrepancies in the documents and in the case which were developed but no useful purpose would be served by going back into them further at this time.

It was concluded that the petitioner's claim of birth in the United States was without merit of the Board of Special Inquiry unanimously voted to deny him admission to the United States. An appeal was taken from the excluding order and was dismissed on March 5, 1942. The subject was released under \$500 bond on February 13, 1942, due to war time conditions. Had the times been normal, he would not have been released but would have been deported on the next available steamer follow-

ing receipt of notice that the appeal had been dismissed.

The petitioner returned his Selective Service Questionnaire on July 2, 1942, from Cincinnati, Ohio, indicating that his residence was in that city. He also indicated that he had been born in San Francisco on July 12, 1912. A penciled notation on the Selective Service Questionnaire indicated that the petitioner was on temporary leave on bond from the Immigration authorities. Petitioner obtained occupational deferment on the ground that he was running full time chicken ranch. He quit this job and went to work for the shipyards for a time. His employment was terminated by one company on April 21, 1945, due to petitioner's continual absences. In April, 1945, he started the management of a restaurant in San Francisco. He did not notify his draft board of his change in address or occupation.

On October 1, 1945, the petitioner was apprehended for violation of the Selective Service Act, was indicted for failure to notify his draft board of his change of status, plead not guilty, was found guilty by the Honorable Louis E. Goodman and sentenced to serve six months in prison at McNeils Islands.

On May 17, 1946, the subject was inducted into the Army of the United States and has served therein continuously from that date. The Army records show that he claimed that he was born in San Francisco, California, on July 12, 1912. The petitioner is still carried in the Army records as a native of San Francisco. Under date of May 31, 1946, the local

board 76 forwarded to this service a copy of a letter to it from one G. R. Jones, First Lt., Inf., Assistant Recruiting Officer, dated May 28, 1946, which reads in part as follows:

“The Citizenship Officer desires me to write you and ask on what grounds this man was registered as an alien (referring to petitioner). He states he was born in San Francisco on 12 Jul 1912, and moved to China about 1913. He married in China and returned to the United States in 1940. I would appreciate further information from the Immigration Bureau concerning this man in order for us to determine his status.”

The appropriate Army authorities were informed of the true status of the subject and it was requested that this Service be informed if his early discharge from the Army was contemplated. Under date of July 2, 1946, a letter was received from the petitioner's organization stating in part, “No action effecting his discharge is anticipated and the only Army regulation governing this case, AR 615-366, makes no provisions for discharges of this nature.”

The subject filed his petition for naturalization on November 9, 1949, and the usual verification of service was obtained. This recites that the petitioner was enlisted into the active federal service on May 17, 1946, and honorably discharged on May 16, 1949. The date and place of birth are shown to be San Francisco, California, July 12, 1912. Petitioner has submitted a copy of his orders, dated October 3, 1949, which are considered as establishing that he

had re-enlisted and is still in the military service.

On November 18, 1949, the petitioner made a sworn statement to an officer of this service and then admitted that he was born in China and that he obtained the "affidavits" there. He claimed birth in San Francisco because that was the only way to obtain entry into the United States.

It is the recommendation of the service that the petition of Jim Yuen Jung be denied on the ground that he has failed to establish that he has been a person of good moral character during the period required by law.

/s/ FRANCIS P. BOLAND,
Designated Examiner.

[Endorsed]: Filed November 23, 1949.

GOVERNMENT EXHIBIT No. 1

VERIFICATION OF MILITARY OR NAVAL
SERVICE UNDER SECTION 324 OR 701,
OR SERVICE AS SEAMAN UNDER SEC-
TION 325 OF NATIONALITY ACT OF 1940,
AS AMENDED.

Dear Sirs:

Please return to the indicated office of the Immigration and Naturalization Service the duplicate of this form, and furnish to that office, on the duplicate of this form or otherwise, a duly authenticated copy of my record of service, including solely the numbered items listed below, for my use in filing a peti-

tion for naturalization under the provisions of Section 324, 325, or 701 of the Nationality Act of 1940, as amended.

The following facts will identify me:

Full name, Jim Yuen Jung.

Other names by which I was officially known while in the service.

Date of birth, July 12, 1942.

Date of enlistment, May 16, 1946.

Date of discharge (Re-enlisted May 17, 1949, for 3 years).

Serial No. ASN RA 19 260 190.

Other pertinent data, shown on records as native of San Francisco, California.

Please include statement showing date and place of birth from service records.

/s/ JIM Y. JUNG.

Present address, 12 Beckett Street, San Francisco, California.

Department of the Army

31 October 1949

AGPI-I 201 Jung, Jim Y.

(17 Oct. 49)

Immigration and Naturalization Service
Appraisers Building, 630 Sansome St.,
San Francisco 11, California.

1. Date of enlistment (into active Federal service), 17 May 1946.

2. Date of discharge, 16 May 1949.

3. Character of discharge, Honorable.

4. Date and place of birth, 12 July 1912, San Francisco, California.

I certify that the information here given concerning the service of the person named above is correct according to the records of the office of the Adjutant General of the Army.

[Seal] /s/ EDWARD F. WITSELL,
Major General,
The Adjutant General.

31 October 1949

AGPI-I 201 Jung, Jim Y. (17 Oct. 49)
Director, Immigration & Naturalization Service

The records further show that subject enlisted man reenlisted in the Regular Army 17 May 1949 and entered on active duty the same day.

The latest report of record in this office shows this soldier serving as a corporal, 516th Engineer Service Company, APO 503, c/o Postmaster, San Francisco, California.

Official statement of service furnished 31 October 1949.

By Authority of the Secretary of the Army.

[Seal] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[Stamped]: Received Nov. 3, 1949, U. S. Immigration and Naturalization Service.

[Endorsed]: Filed November 23, 1949.

[Title of District Court and Cause.]

ORDER DENYING PETITION
FOR NATURALIZATION

For the reason that petitioner, Jim Yuen Jung, has failed to establish that he has been a person of good moral character as required by Section 324(a) of the Nationality Act of 1940 (8 USC 724a), his petition for naturalization is denied.

Dated: November 30, 1949.

/s/ LOUIS E. GOODMAN,
U. S. District Judge.

[Endorsed]: Filed November 30, 1949.

[Title of District Court and Cause.]

NOTICE OF APPEAL

To the Clerk of the Above-Entitled Court and to Bruce G. Barber, District Director for the Immigration and Naturalization Service, San Francisco:

Take notice that the plaintiff in the above-entitled action hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment therein rendered and entered in the said Southern Division of the United States District Court for the Northern District of California on the 30th day of November, 1949, against said plaintiff.

Dated this 7th day of December, 1949.

/s/ JOSEPH S. HERTOGS.

[Endorsed]: Filed December 7, 1949.

[Title of District Court and Cause.]

STIPULATION FOR TRANSMITTAL OF
CERTIFIED COPIES OF ORIGINAL
DOCUMENTS

It Is Hereby Stipulated by and between counsel for appellant and counsel for appellee that a certified copy of the Petition for Naturalization mentioned in the designation of contents of record on appeal shall be transmitted with the appellate record in this case and may be considered by the Court of Appeals in lieu of the original copy of said documents.

JACKSON & HERTOGS,

By /s/ JOSEPH S. HERTOGS,
Attorneys for Appellant.

/s/ FRANK J. HENNESSY,
U. S. Attorney,

/s/ EDGAR R. BONSALL,
Assistant U. S. Attorney,
Attorneys for Appellee.

[Endorsed]: Filed January 6, 1950.

[Title of District Court and Cause.]

ORDER FOR TRANSMITTAL OF CERTIFIED
COPIES OF ORIGINAL DOCUMENTS

By stipulation of counsel, It Is by This Court Ordered, and the Court does Hereby Order the Clerk of the above-entitled Court to transmit with the appellate record in said cause a certified copy of the original Petition for Naturalization No. 92824.

Done in Open Court This 6th day of January, 1950.

/s/ LOUIS GOODMAN,
U. S. District Judge.

[Endorsed]: Filed January 6, 1950.

[Title of District Court and Cause.]

DESIGNATION OF RECORD ON APPEAL

To the Clerk of the United States District Court
for the Northern District of California, South-
ern Division:

It is respectfully requested that the following be submitted to the Clerk of the United States Court of Appeals for the Ninth Circuit:

1. Certified copy of Petition for Naturalization

filed by Jim Yuen Jung, No. 92824, on November 9, 1949.

2. Copy of record of Naturalization Petitions Recommended to be denied. (Form N-484.)

3. Report and recommendation of the designated examiner.

4. Reporter's Transcript of the proceedings in open court before the Honorable Louis E. Goodman, Judge, dated November 23, 1949.

5. Certificate of Military Service Form N-423.

6. Order denying Petition for Naturalization dated November 30, 1949.

7. Notice of Appeal.

8. Stipulation for transmittal of certified copies of original documents.

9. Order for transmittal of certified copies of original documents.

Dated this 6th day of January, 1950.

JACKSON & HERTOGS,

By /s/ JOSEPH S. HERTOGS,

Attorneys for Petitioner.

Service of above duly acknowledged 1/9/50.

[Endorsed]: Filed January 9, 1950.

In the Southern Division of the United States
District Court for the Northern District of
California

Petition No. 92824

In the Matter of the Petition for Naturalization of
JIM YUEN JUNG

Before: Hon. Louis E. Goodman,
Judge.

REPORTER'S TRANSCRIPT

November 23, 1949, 10:00 a.m.

Appearances:

For the Bureau of Immigration and Naturali-
zation:

FRANCIS P. BOLAND, ESQ.,
Examiner.

For the Petitioner:

Z. B. JACKSON, ESQ.

The Court: Do you wish the petitioner to take
the stand?

Mr. Boland: Yes, if Your Honor please.

JIM YUEN JUNG

the petitioner herein, called in his own behalf;
sworn.

The Clerk: Will you state your name to the
Court, please?

A. Sgt. Jim Yuen Jung.

Mr. Boland: The essential facts in this case are

(Testimony of Jim Yuen Jung.)

not in dispute. I think we can save time by my making a statement of facts to which counsel may agree or take exception to such statement as he wishes.

This petitioner was born in China. He is an alien now and at all times during his life has been an alien. He is not a citizen of the United States. He presented himself at the Port of San Francisco on March 13, 1941, claiming birth in San Francisco on July 12, 1912. In support of his claim he presented three fraudulent documents, affidavits of birth and identity, and he supported those documents by his false testimony that he was born in San Francisco. These documents, after they were found to be fraudulent and it was concluded that he was not a citizen, resulted in his being excluded from the United States, and then the Board of Special Inquiry excluded him on his appeal. The appeal was dismissed on March 5, 1942, but at that time he could not be deported back to China, [2*] so he was released on a \$500 bond.

He registered for the Selective Service Act on July 2, 1942. Thereafter he obtained occupational deferment because he was engaged in the management of a chicken ranch. He changed his employment. He went to work for a shipyard, went to work for two different shipyards. Then he quit that, or was fired for absenteeism, and he went into the restaurant business. He was apprehended on October 1, 1945, and indicted for failure to report

* Page numbering appearing at top of page of original Reporter's Transcript.

(Testimony of Jim Yuen Jung.)

his change of status to the draft board. He came before Your Honor and was sentenced on November 27, 1945, for violation of the Selective Service Act. He received a term of six months in prison. I present Your Honor with the criminal record, record of the former trial.

Thereafter on, I think it was May 16th—yes—May 17, 1946, he enlisted in the army and he is still serving in the army. It will be noted that that is more than three years' service. He filed petition for naturalization on November 9, 1949. He is here on a 60-day furlough from Japan. Now, I have here under the seal of the Department of the Army a statement of his service. I would like to offer that in evidence with the request that it be withdrawn at the conclusion of the hearing.

The Court: Very well; let it be marked as an exhibit.

(Statement of army service was thereupon marked United States Exhibit No. 1 for identification.)

Mr. Boland: It is our contention that the petitioner has [3] been acting reprehensibly throughout the whole proceeding. First of all, the presentation of fraudulent documents, his false testimony in 1941 in support of that; the fact that only the war-time conditions precluded his deportation; the obtaining of occupational deferment during the war while hostilities were going on, and then the chang-

(Testimony of Jim Yuen Jung.)

ing of that occupation without reporting to the draft board, a fact which might have resulted in his induction during hostilities; and the fact that he still is apparently making the claim of citizenship in the United States. That report there from the War Department is dated, I believe, October 31, 1949.

The Court: You mean he still stated he was born in the United States?

Mr. Boland: In San Francisco, yes. In other words, he has not purified, clarified the record.

The Court: Is this petition for naturalization now under the "As a member of the armed forces"?

Mr. Boland: Yes. It is under the same act as the previous petitioner this morning, three years in the United States Army.

The Court: What does the certificate of the army state?

Mr. Boland: It shows that he was——

The Court: Let me see that.

Mr. Jackson: Your Honor, right at this point I would like to mention that the army was informed in 1946—May 28, 1946—that the petitioner was an alien, and that they replied on July [4] 2nd, 1946, "No action effective for discharges anticipated," and that the only army regulations in this case makes no provision for discharge of this character, which would indicate for at least three years the army has been aware of his true status.

(Testimony of Jim Yuen Jung.)

The Court: You mean the army was notified in 1946, at the time of his enlistment, he was not born in the United States, not a citizen?

Mr. Jackson: Yes, shortly after his enlistment. He enlisted May 17, 1946, and they were notified May 28, 1946.

Mr. Boland: I have the copy of the letter which initiated the proceeding. I quoted part of it in my recommendation. That is on page 3 at the bottom there.

The Court: Apparently the Selective Service Board notified the army he was registered as an alien. In reply to that the army stated that the man stated that he was born in San Francisco when he was enlisted. Is that right? You say here under date of May 31, 1946, the local board 76—I assume he means Selective Service Board?

Mr. Boland: Yes.

The Court: “Forwarded to this service”—that is the Immigration Service—“a copy of letter to it.” That is, to the local board from the recruiting officer of the army dated May 28, 1946.

Mr. Boland: Then we wrote to the army service forces, [5] attention Lt. G. R. Jones, that the subject arrived at this court in 1941 claiming that he had been born in San Francisco in 1912, departed on a visit to China, and returned as an application extended of from about 1913 to last return 1941. His claims were rejected and it was held he is an alien and was not entitled to enter this counter.

(Testimony of Jim Yuen Jung.)

His appeal was dismissed and he was ordered deported to China as soon as war conditions permitted. He was released on detention under bond. "Please furnish us with this man's army serial number and inform us if an early discharge from the army is contemplated."

The Court: I saw the answer to that. They said they had no provision for discharging him because their records showed he was born in the United States.

Mr. Boland: It appeared that he was transferred and that this last letter stating they had no provision to discharge him came from headquarters, Engineer Training Center, Fort Lewis, Washington. He was presently a member of Company "D," 64th Engineer Training Center, Fort Lewis, at the time they wrote this letter of July 2nd, 1946.

The Court: Well, of course, this Court is not called upon to determine whether the army should or should not keep the petitioner in the service. That I can't decide. I don't know what their regulations are on the subject. He is an alien, he is still in the armed forces of the United States. It is up to the army to determine whether they want to keep him in the army [6] or not.

Mr. Jackson: As a matter of fact, at that time he would have been inducted whether he was an alien or whether he was a citizen.

The Court: In 1946?

Mr. Jackson: 1946.

(Testimony of Jim Yuen Jung.)

The Court: The only question before the Court, as I see it, is whether or not as the matter stands now, on the basis of his service in the armed forces of the United States, whether he is or is not entitled to become a citizen of the United States.

Mr. Jackson: True.

The Court: And that depends on whether he has the character and qualifications to become an American citizen. Isn't that right?

Mr. Boland: Yes. It is our contention that the whole conduct all along the line, including the present army service—not the army service itself, but his conduct has been fraudulent. The army service was a part of a fraudulent plan to escape deportation, and he did not inform the army of the full true facts, and he still has not cleared up the records in the army, so that we do not know whether the army would want him.

The Court: Well, that is a matter for the army to determine. If the army discharges him as an alien, he would be subject [7] to the immigration laws of the United States if he is not a citizen.

Mr. Jackson: That is right.

The Court: The question is, should this Court make him a citizen now? If this Court makes him a citizen now, then he doesn't have to worry about what happens to him after he is discharged from the army. If this Court does not make him a citizen, then he might have to worry, might have that worry on his mind if the army decides to discharge him.

(Testimony of Jim Yuen Jung.)

Mr. Jackson: I understand they recently put in a regulation that aliens must be discharged unless they held first positions.

The Court: So the actual effect of what this Court does is establishing whether this man should, in the event of his impending discharge from the army, be permitted to remain in the United States or not; the effect being to determine whether he should be permitted to remain here or not. In order to permit him to remain here, he has to be made a citizen.

Mr. Jackson: That is right.

The Court: If he isn't to be permitted to remain here, he shouldn't be made a citizen.

Mr. Jackson: You really have his whole fate in your hands.

The Court: Yes, but his record isn't good. I remember the case. There were some others along with him, had a ranch [8] up in the country and it was a phony, and they really had a lottery. The other two men received six months, too, I believe, and one of them received six months for violation of the Draft Act, too. I will be glad to hear what you have to say, counsel, what your viewpoint is with respect to admission.

Mr. Jackson: First of all, I would like to bring out one or two facts that haven't been included in Mr. Boland's report. The petitioner has served three and one-half years now. Practically all of it has been in the Yokohama area of Japan. He has

(Testimony of Jim Yuen Jung.)

advanced in rank from private to sergeant, where he is now. From all I can learn, and I am sure all the Government has, he has been a good soldier. There seems to be no argument about that. He has obviously been worried about his citizenship status, and he tells me shortly before he came back on this furlough he went to the Commanding Officer and talked over his situation with the captain, and the captain suggested he come back to the United States and try to straighten out his citizenship. Meanwhile, he has reenlisted for another three years, in which he has served six months, and apparently he intends to make the army his career.

By the way, we have a former buddy of his who served two and one-half years with him in Yokohama, if there is any question as to his ability and performance as a soldier.

He has no arrests other than the one on which Your Honor sentenced him. He has studied hard in the army, has taken [9] several courses, and it would seem he has tried to make amends. He is trying to be a good soldier, living up to the responsibilities he has. He has acquired a knowledge of English since he has been in the army, and passed the government examination after a study of about six days, which seems to be commendable.

The section under which this petition is filed seems to raise the question as to the burden of character that must be established and the method of proving that character. It is our contention that it is proved

(Testimony of Jim Yuen Jung.)

by the military records. That would seem to be the effect of the regulations. With Your Honor's permission, I would like to read briefly from this. This is a provision for petition of an applicant who files petition while still in the service. It reads thusly:

“At the time the petition for naturalization is filed, petitioner shall present duly authenticated copy of the records and the executive department having custody of the records covering the petitioner's service in the United States Army, Navy, Marine Corps or Coast Guard, which copies must show the period or periods of such service and that it was performed under honorable conditions. Such duly authenticated copy of service record shall be accepted as proof of good moral character, attachment to the principles of the Constitution of the United States . . .”

The section under which it is filed makes provisions for petition by one who is still in the service, one who is out of [10] the service, one whose service is not continuous, and for those whose service is not continuous it requires proof of five years of residence and presumably five years of character. From my reading of it, and I confess I have no precedent decisions, the deduction is that three years of character is required and that that shall be proved by an honorable discharge or copy of the service record on the defendant.

The Court: Three years?

(Testimony of Jim Yuen Jung.)

Mr. Jackson: Three years, yes. There are presently two sections under which a veteran may file. This one has been on the books for eight years. It relates only to those who have served three years in the Army, Navy, Marine Corps or Coast Guard. There is another covering veterans of World War II, regardless of length of service. I might add this: I corresponded with this man two years ago. He was then in Japan. And I advised him to wait until such time as he had three years' service before he made any attempt to come back here and apply for citizenship.

The Court: The legal question, then, involved would be whether or not the showing of three years in the service is sufficient or whether or not five years' good moral character is required at this time.

Mr. Jackson: That is correct. I would not attempt to try to preclude the Court from considering other things. I know you can and should. [11]

The Court: Of course, in the non-military aspects, many judges have adhered to the view that there is no precise period so far as good moral character is concerned, and I have written some opinions on that.

Mr. Jackson: I recall one you wrote on a case of mine.

The Court: Those are on non-military cases, of course. Technically the United States, of course, is still at war and the question, I suppose, will arise, and the Court should consider in the case of appli-

(Testimony of Jim Yuen Jung.)

ications by those in the military service—that involves, I think, a philosophy that perhaps has not been committed to writing in any decision as yet as to what Congress——

Mr. Jackson: I am sure it hasn't.

The Court: ——at the time in conferring citizenship on those who served in the armed forces as far as requiring proof of character is concerned.

Mr. Jackson: It is a reward statute.

The Court: Might be quite a question. What is your view of it, Mr. Boland?

Mr. Boland: The service feels that on a military case under 324-a—we have the two separate acts under 324-a and 324-A, which is the veterans' act for World Wars I and II, no particular length of time being required on that. The view is that the petitioner must show good moral character from the time of the filing of the petition to the date of the hearing, [12] but that his conduct for a reasonable period prior to the filing may be considered as indicating what his character is as of the filing of the petition. For example, we had one case where the man had made false claims as to his marital status up to about 60 days before the filing of the petition, and the service recommended denial in that. On these cases under 324-a we have not received a definite ruling on that, but I believe the service viewpoint would be that he need show good moral character only for the period of the service.

The Court: This is not an application under 324-a—small a, as you put it?

(Testimony of Jim Yuen Jung.)

Mr. Boland: It is under "small a," the three-year case. If he had cleared up his record and gotten into the army fairly and squarely three years ago, or when he did, we would not at this time have any objection to it.

The Court: You are objecting to it on the ground that there is an element of fraud and bad faith in connection with the enlistment in the service in the army itself, even though his actual service as a soldier was meritorious?

Mr. Boland: Yes, Your Honor.

The Court: That is your point?

Mr. Boland: It is part of his general plan to remain here and escape deportation.

Mr. Jackson: Oh, I don't think that is part of it.

Mr. Boland: That is just our inference. [13]

Mr. Jackson: I know that is just your inference. That is conjecturing.

The Court: The facts are undisputed in this matter?

Mr. Boland: That is right.

The Court: No question about the facts?

Mr. Jackson: No, there is none.

The Court: It is really a question of what under this 324-a (small a, as you put it)—how the Court should view this particular application for citizenship against the background of the admitted facts in the case.

Mr. Boland: There is a question, too, how would the army, if it were presented to them for the purpose of making a certification of his service, view

(Testimony of Jim Yuen Jung.)

his claim of birth in San Francisco. That is speculation.

Mr. Jackson: They have already passed on that. They just certified him as honorable.

Mr. Boland: They still certify he was born in San Francisco, according to their records.

The Court: They say that is what he told them, but according to what counsel says now, it having been called to the attention of the army, he is in fact an alien, the army may discharge him, is that correct?

Mr. Jackson: That is my understanding as to the present regulations. I don't see how the army could possibly have passed knowing his true status. Your Honor, there is the [14] transaction of 1945, those are completely detailed in the probation report. The FBI original report of this current proceeding in courts sets forth the entire history, and I think the false claim of citizenship that appears in the War Department records is based on registration for the draft in 1942.

The Court: If I may interrupt you, I don't think it is particularly important whether the Army knew or not. I think that the most important problem that you have is the admitted fact that he stated to the Army that he was born in the United States when in fact he was not and had already been ordered deported for that reason. That is the significant thing that is against him in the older picture, the picture of the events that are three years or more old.

(Testimony of Jim Yuen Jung.)

Mr. Jackson: May I ask Mr. Boland one question?

The Court: Yes.

Mr. Jackson: Isn't it generally the view of your service that the period of character required is the period of residence specified?

Mr. Boland: Yes.

Mr. Jackson: I mean where it is a woman who requires one year of residence, two years—

The Court: They have urged that, but the courts haven't always agreed with that. For instance, in the case of a spouse they say they only have to show one year good moral character, and I think some of the judges haven't agreed they have to [15] follow that; a man is shown to have been guilty of some reprehensible offense or deed just two years before, that the Court isn't hamstrung, doesn't have to be bound by the theory that periods of good character and residence are coincidental. However, we do not have that before us. How long is this man going to be here?

Mr. Jackson: He is right at the desperate stage. His furlough terminates December 1st, which is next week, and he must report to Camp Stoneman to return to the Yokohama area by December 1st. Isn't that right?

The Petitioner: Yes, sir.

Examination by the Court

The Court: How old are you now?

A. - 37 now, sir.

(Testimony of Jim Yuen Jung.)

Q. It is true when you enlisted in the Army you told them you were born in the United States?

A. I was—I didn't understand English at all, but I went in the Army and went to MP school.

Q. You are a good soldier; you just answer the questions. That is the best way you can help yourself. The Army has in your records that you were born in San Francisco on such and such a date, and your record is to the effect that you told them, whether you understood English or not, you knew what you were doing. Did you tell them that when you went into the army? Did you tell them you were born in San Francisco? [16]

A. I think I tell them about it, yes, sir.

Q. Why did you do that?

A. Well, I don't know. I might make a mistake, sir. My English wasn't very well.

Q. Well, but you knew you had already been ordered deported. You had been refused entrance to the United States by the Immigration authorities because of the fact that you were born in China. Why did you tell the recruiting officer you were born in San Francisco? Forget about the fact that you didn't speak such good English. What was in your mind? Why did you tell them that?

A. Well, I think I like United States Army.

The Court: You just wanted to get in the Army and figured that was the way to do it?

A. Yes, sir.

(Testimony of Jim Yuen Jung.)

The Court: Well, I think I ought to give some consideration to this matter.

Mr. Jackson: May I call Your Honor's attention to one more thing?

The Court: Yes.

Mr. Jackson: Last week at the suggestion of Mr. Heckert, investigator of the Immigration Service who had appeared before Your Honor many times, we took the petitioner over to talk with Mr. Heckert. By the way, he was the man who conducted the board hearing when the petitioner first applied for admission [17] to the United States, and he wanted to get the true facts as to how Jim obtained the documents on which he first arrived here. We took him over and he testified very fairly and frankly as to how it all occurred. Briefly, it was arranged by a Chinese who formerly was an interpreter for the Immigration Service.

The Court: I suppose he paid something?

Mr. Jackson: Yes. He agreed to pay if he was successful, and he was furnished with fraudulent affidavits. Everyone deserted him, witnesses didn't show up. He couldn't correspond to this man, who was then in Hong Kong. At the conclusion of this statement, Mr. Heckert said he had told the entire truth and had been helpful to the Government, and told me he had added a report in his record in which he stated that if he were the examiner appearing before Your Honor, he would recommend that this man be naturalized.

(Testimony of Jim Yuen Jung.)

The Court: Because of the applicant's disclosure of the circumstances concerning those documents, which was of help to the Government in its investigation?

Mr. Jackson: Yes. They were very crude forgeries, supposedly notarized by a notary in New York who had died 18 years before that.

The Court: We have had a number of cases of that kind. A man who is committing an act of that kind is not able to foresee all possible contingencies that may come up and may make some mistake. That is how they are caught. [18]

Mr. Jackson: It was interesting to note the master mind was a former interpreter in the department himself. I think Mr. Boland has the report.

The Court: Is there any dispute that the applicant did make disclosures which were of help to the Government?

Mr. Boland: Mr. Heckert didn't tell me how much value it would be. He did state that he thought very well of him. Mr. Heckert is an investigator and very anxious to get any leads as to any forged documents.

Mr. Jackson: I think you will agree with me he isn't noted for being soft-hearted. One of the best investigators in the service.

The Court: The applicant has been a good soldier aside from these statements as to place of birth?

Mr. Boland: Yes, Your Honor.

The Court: Is he married?

(Testimony of Jim Yuen Jung.)

Mr. Jackson: He is married and has a wife and three children.

The Court: In China?

Mr. Jackson: Yes.

The Court: You were married in China?

A. Yes, sir.

Q. When were you married?

A. When I was 18 years old.

Q. That would be about 1930. They are being supported out of [19] an allotment taken out of your salary? A. Yes.

Q. Whereabouts in China does your wife live?

A. Well, the last time I heard from my wife was last month.

Q. Where was she?

A. She is in Canton.

Q. In the Canton area? A. Yes.

The Court: Well, with the statements made to me and the report I have all the facts in the matter, have I, before me?

Mr. Jackson: Yes.

The Court: I would like to give a few days' consideration to this matter.

Mr. Jackson: All right, Your Honor. If it would be possible to arrive at a decision by Monday—

The Court: Oh, yes. I understand.

Mr. Jackson: Time is running short on him.

The Court: He has to report on next Thursday?

Mr. Jackson: Yes, at Camp Stoneman.

(Testimony of Jim Yuen Jung.)

The Court: A week from tomorrow. Well, this is a rather unusual case. I think I might think about it a little bit.

Mr. Jackson: It is a rather tragic consequence. I feel somewhat responsible for him myself. I am afraid I have gotten him in a dilemma where he is either to be naturalized or winds up— [20]

The Court: I think you have no reason to berate yourself in the matter. The situation isn't of your creation.

Mr. Jackson: That is true.

The Court: You are doing what you think best for the benefit of your client.

Mr. Boland: If the Court should decide that the petition should be denied, the petitioner could always be further informed and request dismissal so that no denial would be on the record.

Mr. Jackson: I don't know that that would be of any particular value to him. The principal question is whether he will be able to stay in the Army or if he is to be discharged.

The Court: I have no control over that. Whether the Army would be held bound by its regulations to discharge him now, I don't know whether they have any discretion or not.

Mr. Jackson: They usually seem to find some method.

The Court: If they keep him in the army, then maybe he might, if he is able to stay in the army, he might be better off to defer his citizenship application for a year or two.

(Testimony of Jim Yuen Jung.)

Mr. Jackson: He says he intends to make a career of it.

The Court: Why don't you talk to the army authorities about it? He might be better not to take a chance on this. It is a serious case and I would decide it now if I didn't have a doubt about it. He might be better off in any event. Of course the Government can appeal, too. He might be better off [21] to stay in the army and defer his application.

Mr. Jackson: I can't seem to get any decision on the question from the army. We couldn't even get more furlough. That has to be done through headquarters in the Yokohama area. I am sure whether he would be allowed to return would depend on his superior officer back there. It seems to me that everything that concerns you is decided in Yokohama, is it not?

The Petitioner: Yes, sir.

Mr. Jackson: We tried unsuccessfully to get two more weeks' furlough because we were afraid this would not come before the Court and we couldn't do it.

The Court: Well, I will give the matter further consideration.

Mr. Jackson: Thank you, Your Honor.

Mr. Boland: Thank you, Your Honor.

CERTIFICATE OF REPORTER

I, K. J. Peck, Official Reporter, certify that the foregoing 22 pages is a true and correct transcript

of the matter therein contained as reported by me and thereafter reduced to typewriting to the best of my ability.

/s/ K. J. PECK.

[Endorsed]: Filed December 29, 1949.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK TO
RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the foregoing documents listed below, are the originals filed in this Court, or true and correct copies, in the above-entitled case, and that they constitute the Record on Appeal herein, as designated by the parties, to wit:

Copy of Petition for Naturalization.

Report and Recommendation of the Designated Examiner.

Naturalization Petitions Recommended to be Denied.

Certificate of Military Service.

Reporter's Transcript for November 23, 1949.

Order Denying Petition for Naturalization.

Notice of Appeal.

Stipulation for Transmittal of Certified Copies of Original Documents.

Order for Transmittal of Certified Copies of Original Documents.

Designation of Record on Appeal.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court this 16th day of January, A.D., 1950.

C. W. GALBREATH,
Clerk,

[Seal] By /s/ M. E. VAN BUREN,
Deputy Clerk.

[Endorsed]: No. 12455. United States Court of Appeals for the Ninth Circuit. Jim Yuen Jung, Appellant, vs. Bruce G. Barber, District Director for the Immigration and Naturalization Service, San Francisco, Appellee. Transcript of Record. Appeal from the United States District Court for the Northern District of California, Southern Division. Filed January 16, 1950.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for
the Ninth Circuit.

[Title of U. S. Court of Appeals and Cause.]

No. 13455

In the Matter of the Petition of:
JIM YUEN JUNG for Naturalization

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY IN THE APPEAL OF THE ABOVE-ENTITLED MATTER

Comes now Jim Yuen Jung, by and through his

attorneys, Jackson & Hertogs, files herein the Statement of Points on which appellant intends to rely in the appeal of the above-entitled matter:

I.

The District Court erred in finding that said petitioner had not established good moral character as required by Section 324(a) of the Nationality Act of 1940 (8 USCA 724(a)).

II.

The District Court erred in denying appellant's petition for naturalization as a citizen of the United States.

JACKSON & HERTOGS,
By /s/ JOSEPH S. HERTOGS,
Attorneys for Appellant.

Receipt of copy duly acknowledged 1/6/50.

[Endorsed]: Filed January 6, 1950.

[Title of U. S. Court of Appeals and Cause.]

DESIGNATION OF RECORD TO BE INCORPORATED IN TRANSCRIPT ON APPEAL

Appellant, Jim Yuen Jung, by and through his attorneys, Jackson and Hertogs, in the above-entitled matter (in accordance with Rule 75(a) of the Federal Rules of Civil Procedure and Rule 75(a) of the General Equity Rules hereby desig-

nates the entire record in the above-entitled matter to be included in the Transcript on Appeal on its pending appeal from the judgment made, filed and entered in said matter November 30, 1949.

JACKSON & HERTOGS,

By /s/ JOSEPH S. HERTOGS,

Attorneys for Appellant.

Service admitted Jan. 6, 1950.

[Endorsed]: Filed January 6, 1950.